

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 130 of 1994

in

COMPANY PETITION No 125 of 1993

WITH

OFFICIAL LIQUIDATOR'S REPORT NO.71/1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

-----  
TEXTILE LABOUR ASSOCIATION

Versus

O.L. OF RUSTOM MILLS & INDUS.  
-----

Appearance:

MR DS VASAVADA for Petitioner  
OFFICIAL LIQUIDATOR for Respondent No. 1  
SERVED for Respondent No. 2  
-----

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 12/12/96

ORAL JUDGEMENT

1. This judge's summons has been taken out by Textile Labour Association with a prayer that assets of Rustom Mills & Industries Ltd (in liquidation and referred to as 'the company' hereinafter) be sold and a Chartered Accountant be appointed for verification of ownership of assets which are lying in premises of the Company.

2. Learned counsel Shri D.S. Vasavada appearing for the petitioner has submitted that certain assets belonging to the Company are lying in the Company premises and it would be just and proper if the said assets of the company are disposed of. He has also drawn attention of this Court to the fact that some stock of the company lying in the premises of the company was stolen in the past. In the circumstances, he has specifically prayed that stock of cloth lying in a godown given on rent by the company to Dinesh Polybers Ltd. be disposed of.

3. The godown in which the above referred to goods have been stored had been leased by the company to Dinesh Polybers Ltd. Learned counsel Mr Soparkar appearing for Dinesh Polybers Ltd has submitted that the goods lying in the godown leased to Dinesh Polybers Ltd belong to Dinesh Polybers Ltd. In spite of the said fact, without prejudice to rights of Dinesh Polybers Ltd, learned counsel Shri Soparkar has submitted that he would not object to disposal of the said cloth provided sale proceeds are kept separately so that an appropriate order can be passed with regard to the payment of the same to Dinesh Polybers Ltd or other person, as may be directed by this Court. In other words, without prejudice to rights of Dinesh Polybers Ltd, learned counsel Shri Soparkar has given his consent for disposal of the said goods.

4. It is pertinent to note that, some of the goods referred to hereinabove had been stolen in the past and therefore, it would be in the interest of the concerned parties to see that the goods are disposed of as soon as possible.

5. At present, the godown of Dinesh Polybers Ltd which is situated in the premises of the company has been locked by Dinesh Polybers Ltd and the official liquidator has also sealed the said godown.

6. With consent of all the parties, it is directed that the goods stored in the said godown be sold and the

sale proceeds be kept by the official liquidator in a separate account. For the purpose of effecting sale of the said goods, a Sale Committee consisting of the official liquidator, a representative of the petitioner association, a representative of Dinesh Polybers Ltd and a representative of Bank of India, who is a secured creditor, be constituted. The official liquidator shall be the Convener of the Committee.

7. The Sale Committee will take an appropriate action for publication of necessary advertisement for inviting offers for sale of the goods in question. The official liquidator is permitted to incur necessary expenditure for doing the needful for sale of the goods in question out of the funds which he is having at his disposal. The amount which might be spent by the official liquidator, will be ultimately reimbursed from the sale proceeds. The sale would be subject to confirmation by this Court.

8. With regard to other prayers made in the application, learned counsel Shri Vasavada reserves his right to file a fresh application at an appropriate time.

9. The official liquidator has also submitted his report No. 71/1996 with a prayer that his action of taking services of security agency to deploy security staff in the circumstances stated in the report be ratified. Looking to the fact that a theft had taken place in the company premises and several old watchmen had left their jobs without giving any intimation to the official liquidator, action of the official liquidator with regard to taking services of security agency is ratified.

10. In the circumstances, this application and the official liquidator's report No.71/1996 are hereby disposed of accordingly. Rule made absolute accordingly.

\*\*\*\*\*

parmar\*